

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Middle District of Pennsylvania



United States of America )

v. )

Nicholas Silva-Shaffer )

Case No. 1:24-mj-00080

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 16, 2024 in the county of Dauphin in the  
Middle District of Pennsylvania, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 1951

Hobbs Act Robbery

This criminal complaint is based on these facts:

I, Darrin Bates, a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, being duly sworn, depose and state the following:

☒ Continued on the attached sheet.


Complainant's signature

Darrin Bates, TFO ATF

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone.

Date: SEPTEMBER 26, 2024


Judge's signature

City and state: Harrisburg, Pennsylvania

Daryl F. Bloom, Chief U.S. Magistrate Judge

Printed name and title

**CONTINUATION PAGES FOR AFFIDAVIT IN SUPPORT OF  
CRIMINAL COMPLAINT**

1. (con't) Since July 2002, I have been a Police Officer for the City of Harrisburg, Bureau of Police. Before that, I was a Fairfax County Deputy Sheriff in Fairfax County, Virginia for approximately two years.

2. Since 2017, I have been assigned to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as a Task Force Officer (TFO). Currently, I am currently assigned as a TFO to the ATF Philadelphia Field Division, Harrisburg Field Office, consisting of ATF Special Agents whose primary responsibilities include investigating individuals or groups that have committed violations of the federal firearms and narcotics laws.

3. During my tenure as a Police Officer and TFO, I have: received 15 merit and valor awards to include "Officer of the Year"; made over 1,900 drug and firearm related arrests; conducted and participated in hundreds of investigations; and debriefed, or participated in debriefings of, defendants, informants, and witnesses with personal knowledge regarding federal and state firearms and narcotics violations. Further, I have participated in all aspects of those investigations,

including conducting surveillance and analyzing information obtained from court-ordered cellular phone extractions. As well, I have been the affiant for hundreds of affidavits, in support of search and arrest warrants. Last, I have assisted and participated in hundreds of felony drug arrests and search warrants and completed numerous drug-training classes and seminars.

4. The averments herein are based on, among other things: my training and experience; my personal knowledge; interviews of witnesses; my review of documents and records; public records; other evidence; and, conversations with other law enforcement agents and officers, including other experienced ATF Special Agents with whom I work.

5. The facts herein are for the limited purpose of establishing probable cause in support of the sought after criminal complaint and arrest warrant. I do not attempt to set forth all details or facts surrounding the investigation.

6. On or about September 16, 2024, officers from the Harrisburg Bureau of Police (HBP) were dispatched to Rite Aid, located in "Strawberry Square," at 304 Market Street, Harrisburg, Dauphin County, Pennsylvania, for a report of a robbery.

7. At the Rite Aid, HBP officers spoke with Amya Burrs, a Rite Aid employee, who said the following, in part:

- a. At approximately 12:40 p.m., an unknown white or Hispanic male wearing a hooded sweatshirt and mask approached her, stating that he had a gun and wanted money from the cash register.
- b. The suspect did not display a gun but made gestures as if he had one.
- c. Burrs advised the suspect that she could not open the cash register.

8. HBP officers also spoke with Katie Polanco, another Rite Aid employee, who said the following, in part:

- a. Polanco walked behind the counter with Burrs where she could see Burrs talking with the suspect.
- b. The suspect demanded money from the cash register.
- c. Polanco was able to open the cash register and gave the suspect over approximately \$329 dollars in United States currency.

9. I am familiar with the particular Rite Aid store and know that Rite Aid, generally, is a drugstore chain that offers a variety of services, including retail and pharmacy, and sells goods that travel in interstate commerce.

10. I reviewed video surveillance from the Rite Aid store, Strawberry Square, and from surrounding locations, including 333 Market Street, the Amtrack Train Station, the Zion Lutheran Church, and El Coqui Bar and Grill.

11. Based on the surveillance that I reviewed:

- a. At approximately 11:40 a.m., the suspect, wearing a white-hooded sweatshirt, tan shorts, black balaclava, and black and white shoes paced up and down the sidewalk behind the El Coqui Bar and Grill and Zion Lutheran Church.
- b. The suspect then walked westbound in the 400 block of Blackberry Street, crossed over S 4th Street, walked northbound through the walkway of 333 Market Street, and came out onto the 300 block of Market Street.

- c. The suspect then continued walking northbound and crossed over Market Street before walking westbound directly in front of Strawberry Square and the Rite Aid store.
- d. At one point, the suspect stopped and sat down next to Freshido, a restaurant located at 300 Market Street. The suspect sat at this location for several minutes before getting up and walking around the corner northbound on N 3rd Street. Thereafter, the suspected walked into the N 3rd Street entrance of Strawberry Square.
- e. While inside Strawberry Square, the suspect continued to walk around, just north of the Rite Aid store, while holding what appeared to be a black cellular phone.
- f. The suspect eventually sat down outside the Rite Aid north entrance. After about 30 minutes, the suspect got up from his seat and walked into the Rite Aid store through the north entrance.

- g. The suspect approached the counter where Burrs was working. The suspect picked up a bag of pistachios with his bare hands and threw them on the counter. While speaking with Burrs, the suspect pulled an item from his right shorts pocket and placed it in the front pocket of his hooded sweatshirt.
- h. The suspect then took the money from Polanco and fled from the store through the north side, into Strawberry Square. While in Strawberry Square, the suspect ran east bound before turning northbound into the hallway that led outside.
- i. Once outside of Strawberry Square, the suspect fled back across Market Street, southbound through the front entrance way of 333 Market Street. The suspect then came out of the walkway eastbound towards S 4th Street wearing a black t-shirt and holding onto his white sweatshirt, before crossing over S 4th Street and heading eastbound into the 400 block of Blackberry Street.

- j. The suspect then turned right, walking southbound to the rear of the El Cloqui Bar and Grill and directly towards and underneath a camera located to the rear of the El Cloqui Bar and Grill. At that point, I saw a clear view of the suspect, including a distinctive tattoo on the left forearm.
- k. The suspect then ultimately fled eastbound to the Amtrak Station before leaving the area in a cab.

12. I took a still photograph of the suspect while he walked towards the camera in the video surveillance behind El Cloqui Bar and Grill.

13. Utilizing law-enforcement databases, I obtained an investigative lead on the suspect in the still photograph, which revealed previous arrest photographs of Nicholas SILVA-SHAFFER to include photographs of tattoos that he had. One of the photographs was of a tattoo on Nicholas SILVA-SHAFFER'S left arm, which appeared to be the identical tattoo on the left arm of the suspect seen in the surveillance video.



14. ATF Special Agent Rebecca Whitmer and I subsequently contacted the Rite Aid store manager, Kayla Zorbaugh, who told us the following, in part:

- a. After the robbery, Zorbaugh, Polanco, and Burrs, all believed that they had seen the suspect before based on the suspect's eyes and eyebrows. They further believed that the suspect reminded them of a frequent customer who used the Western Union in the store. They referred to that customer as "Western Union guy."
- b. Zorbaugh, Polanco, and Burrs reviewed video footage from the store and saw "Western Union guy" in the store, utilizing the Western Union, on or about September 13, 2024. Zorbaugh gave law enforcement a copy of those photos.

- c. Zorbaugh compared the photos from on or about September 13, 2024, and the video of the suspect in the robbery, and could tell they were both wearing the same shorts and shoes. Zorbaugh, Polanco, and Burrs, in turn, felt strongly that the suspect was “Western Union guy.” SA Witmer and I viewed the photos and agree that the clothing and shoes appear to be identical.
- d. Zorbaugh spoke with other Rite Aid store managers in the area and found that “Western Union guy” was also recently inside the Rite Aid store located at 2103 N 3rd Street Harrisburg, Dauphin County, Pennsylvania, on or about September 19, 2024.
- e. Zorbaugh has worked at this Rite Aid store location for approximately 11 months and had seen and interacted with “Western Union guy” over a dozen times. “Western Union guy” would come in to use the Western Union on a consistent basis.

- f. Polanco and Burrs, who worked at the Rite Aid for a while, also had interactions with the “Western Union guy”.

15. SA Whitmer and I compared the suspect in the video surveillance to the JNET WebCPIN photograph of Nicholas SILVA-SHAFFER, the Rite Aid store photographs of the “Western Union guy,” and positively identified Nicholas SHAFFER to be the person in the photographs and suspect in the video surveillance.

16. I showed Zorbaugh the same picture of the suspect that I took from the video surveillance. Zorbaugh positively identified the male in the photograph to be the “Western Union guy.”

17. Based on the identification of the suspect by Zorbaugh, SA Witmer and I believe that the suspect who committed the robbery on or about September 16, 2024, at the Rite Aid was Nicholas SILVA-SHAFFER.

18. Furthermore, based on the above factual averments, probable cause exists that Nicholas SILVA-SHAFFER has violated 18 U.S.C. § 1951 (Hobbs Act Robbery).

19. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.